

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TOUHY & TOUHY, Ltd., a professional corporation,)	
)	
)	
Plaintiff,)	Case No. 08 CV 2950
)	
vs.)	Judge Holderman
)	
ERIK H. LANGELAND and ERIK H.)	
LANGLAND, P.C. a professional corporation,)	
)	
Defendants.)	

DEFENDANTS' MOTION TO DISMISS

Defendants, Erik H. Langeland and Erik H. Langland, P.C., by and through their undersigned attorneys, for their Motion to Dismiss Pursuant to Federal Rules of Civil Procedure 12(b)(7) and 12(b)(1), state as follows:

1. This matter arises out of allegations filed by Touhy & Touhy, Ltd. against Ryan Stephan and James Zouras and their current firm StephanZouras, LLP in The Circuit Court of Cook County, Illinois in the case captioned *Touhy & Touhy, Ltd. v. Ryan Stephan, et al.*, Case No. 2007 CH 013552 (the "Cook County Action").

2. Paragraph 5 of the Amended Complaint asserts that "This action is brought against Langland for tortuous conduct performed by Langeland against the plaintiff for conversion, interference with prospective economic advantage, aiding and abetting a breach of fiduciary duty, Langeland's own fiduciary breach of and fraud. Moreover, the Complaint admits that the claims against Erik Langeland are directly related and dependent on the alleged wrongful conduct of Stephan and Zouras as asserted in the Cook County Action.

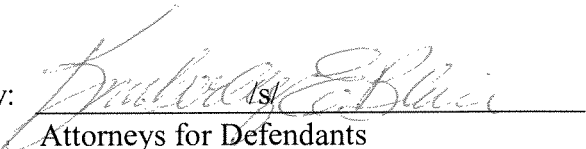
3. These causes of action as against Langeland, cannot be determined without the presence of Stephan and Zouras and to do so would be highly prejudicial to Langeland. For those reasons, this Court should dismiss Plaintiff's Action pursuant to FRCP 12(b)(7).

4. In addition, Plaintiff complains of Mr. Langeland's conduct with respect to three lawsuits for which the Touhy firm claims it has been damaged. The amount in controversy as a result of those fee arrangements, however, does not reach the \$75,000 jurisdictional demand. *See* affidavit of Erik Langeland attached as Exhibit A to the Memorandum in Support of the Motion to Dismiss. Therefore, pursuant to Rule 12(b)(1) this action should be dismissed.

6. Defendants incorporate herein the arguments set forth in the Memorandum in Support of Their Motion to Dismiss.

WHEREFORE, Defendants Erik H. Langeland and Erik H. Langeland, P.C. respectfully request that this Court dismiss this action with prejudice pursuant to FRCP 12(b)(7) and dismiss the Complaint without prejudice pursuant to FRCP 12(b)(1) and provide any other relief to the Defendants this Court deems necessary.

Respectfully submitted,

By: 
Attorneys for Defendants
ERIK H. LANGELAND and ERIK H.
LANGLAND, P.C.

Kimberly E. Rients Blair
Gordon & Rees LLP
One North Franklin
Suite 1800
Chicago, Illinois 60606
(312) 565-1400

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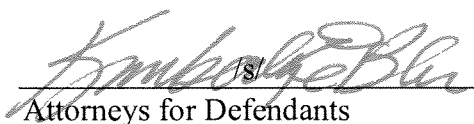
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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that a true and correct copy of the above and foregoing pleading was served via electronic mail on July 10, 2008 to:

E. Steven Yonover
E. Steven Yonover & Associates
161 N. Clark, Suite 2210
Chicago, Illinois 60601

Respectfully submitted,

By: 
Attorneys for Defendants
ERIK H. LANGELAND and ERIK H.
LANGELAND, P.C.

Kimberly E. Rients Blair
Gordon & Rees LLP
One North Franklin
Suite 1800
Chicago, Illinois 60606
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